

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

HECTOR AMAYA, ADRIAN CARBAJAL,
JOSE ALFREDO HERNANDEZ, JOSE ALFREDO
JIMENEZ, SANTOS MENDOZA, VICTORIANO
MORALES ALFONSO PEREZ, BERNABEL PEREZ,
FRANCISCO PEREZ, VENUSTIANO PEREZ,
on behalf of themselves and
others similarly situated,

Plaintiffs,

v.

166 PARK INC., 81 PETER INC., 292 PATER INC.,
PETER LAWRENCE and DAVID SELIG

Defendants.

Case No.: 11-cv-1081(SLT)(RML)

**NOTICE OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION OF
THE SETTLEMENT CLASS,
APPOINTMENT OF PLAINTIFF'S
COUNSEL AS CLASS COUNSEL, AND
APPROVAL OF PROPOSED NOTICE
OF SETTLEMENT**

Please take notice that upon the accompanying Memorandum of Law, Proposed Order (attached hereto as Exhibit 1), and Declaration of C.K. Lee and annexed materials, the Plaintiffs, on behalf of themselves others similarly situated, by their undersigned attorneys, hereby move for the following relief in this Fair Labor Standards Act collective action and New York Labor Law class action:

- (1) Conditional certification of this action as a representative collective action pursuant to the FLSA, 29 U.S.C. § 216(b), on behalf of all "front of the house" non-exempt hourly persons employed by Defendants 166 Park Inc., 81 Peter Inc., 292 Pater Inc.,

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Peter Lawrence and David Selig, as well as 33 Pronto, Inc. (“Covered Employees”) from March 7, 2005 until the date of the entry of the final order approving the class settlement (the “FLSA Period”) “Front of the house” is limited to delivery personnel, drivers, cooks, porters, dishwashers and busboys, and excludes servers and takeout personnel.;

- (2) Certification of this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of all Covered Employees (the “Class Period”), and making ADRIAN CARBAJAL and FRANCISCO PEREZ each a Class Representative;
- (3) Approval of Plaintiffs’ Counsel as Class Counsel and Administrator;
- (4) Preliminary approval of the settlement agreement attached to the Declaration of C.K. Lee as **EXHIBIT A** (“Lee Declaration”).
- (5) Approval of the Court facilitated notice of this action to the Covered Employees attached to **EXHIBIT B** of the Lee Declaration and ordering that the notice be mailed to all Covered Employees by first-class mail and also be published separately in English and Spanish language newspapers with circulation in the New York City area on two separate occasions;
- (6) Requiring production by Defendants of names, last known mailing addresses, alternate addresses, all telephone numbers, Social Security numbers, positions, and dates of employment of all Covered Employees and Class Members;
- (7) Preliminary approval of Plaintiffs’ attorneys’ fees of \$43,333.33, plus expenses of up to \$5,000;
- (8) Preliminary approval of administrator’s fees of up to \$20,000; and

(9) Setting a date for the Fairness Hearing to a date convenient to the Court.

Dated: May 31, 2012

Respectfully submitted,

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By: /s/ C.K. Lee
C.K. Lee (CL 4086)